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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,733	03/14/2005	Ralf Kleeb	H58-042 US	8862
21706	7590	06/26/2006	EXAMINER	
NOTARO AND MICHALOS 100 DUTCH HILL ROAD SUITE 110 ORANGEBURG, NY 10962-2100			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,733	<b>Applicant(s)</b> KLEEB ET AL.	
	<b>Examiner</b> Anita M. King	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the first office action for application number 10/527,733, Pipe Clip, filed on March 14, 2005.

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of several pipe clips can be stacked one above the other cited in claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

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- (I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,172,578 to Pate. Pate discloses pipe clip comprising an upper part (10) and a lower part (50) encompassing a throughlet opening (18) for a pipe (82), these two

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parts being connected with one another on one side via a hinge (44) and on the other side having detachable securing elements (42, 68); wherein the upper part and the lower part each have one supporting face directed outwardly and extending parallel, in the lower part a bore (78) is located accessible from the throughlet opening, at least in one side region of the clip a throughbore (36); wherein both side regions of the clip have each one throughbore; and wherein in the closed state the pipe clip has a cuboid outer form.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,694,474 to Lainer in view of U.S. Patent D414,404 to van de Lande, hereinafter, Lande. Lainer discloses pipe clip comprising an upper part (12) and a lower part (1) encompassing a throughlet opening, these two parts being connected with one another on one side via a hinge (@14) and on the other side having detachable securing elements (20, 25); wherein the upper part and the lower part each have one supporting face directed outwardly and extending parallel, at least in one side region of the clip a throughbore (3), wherein the lower part has side portions which extend

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beyond the center axis of the throughlet opening for the pipe in the direction of the upper part; and wherein both side regions of the clip having one throughbore.

Lainer discloses the claimed invention except for the limitations of the lower part having a bore accessible from the throughlet opening and the upper part extending only over a range of less than  $180^{\circ}$  of the circumference of the opening. Lande teaches a pipe clip having an upper part and a lower part encompassing a throughlet opening for a pipe, the two parts being connected to one another on one side via a hinge and the other side having detachable securing elements, the lower part having a bore accessible from the throughlet opening, and wherein the upper part extends only over a range of less than  $180^{\circ}$  of the circumference of the opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the clip in Lainer to have included the upper part and the bore as taught by Lande for the purpose of providing an alternative aesthetic appearance to the clip and for the purpose of providing an additional means for securing the clip to a support surface.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pate in view of U.S. Patent 6,809,257 to Shibuya. Pate further discloses a latching closure (20) on the lower part of the clip and an engagement surface (25) for receiving the latching closure, on the upper part. Pate discloses the claimed invention except for the limitation of a resilient connection element. Shibuya teaches a pipe clip having an upper part (13) and a lower part (10) connected with one another via a hinge (17) and on the other side having detachable securing elements (18, 19), and wherein the detachable securing

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element on one side of the two parts of the pipe clip is a latching closure (19) and on the lower part or the upper part a resilient connection element (18) is disposed and on the other part of the pipe clip a corresponding retaining part (21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the securing elements in Pate to have included the securing elements as taught by Shibuya for the purpose of providing an alternative, mechanically equivalent means for interlocking the upper part of the clip with the lower part to secure a pipe within the throughlet opening.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pate in view of U.S. Patent 6,173,926 to Elvegaard. Pate discloses the claimed invention except for the limitation of several pipe clips being stacked one above the other. Elvegaard discloses a pipe clip having a lower part and an upper part connected via a hinge, and wherein the sides of the parts have throughbores that allow several pipe clips to be stacked one above the other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the invention in Pate to have included a plurality of pipe clips stacked one above the other as taught by Elvegaard for the purpose of providing a means for securing a plurality of pipes in relation to each other.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



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U.S. Patent 4,478,381 to Pittion et al.

U.S. Patent 5,044,583 to Daigle et al.

U.S. Patent 5,390,876 to Hatano et al.

U.S. Patent 6,378,813 to Gretz

U.S. Patent 6,561,471 to Hawie

U.S. Patent D483,241 to Miller et al.

U.S. Patent 6,717,055 to Kato

U.S. Patent 6,782,761 to Imai et al.


The above patents all disclose various types of pipe, cable, or conduit clips.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anita M. King  
Primary Examiner  
Art Unit 3632

June 21, 2006